

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
March 13, 2006 Session

**ROGER CLAY PARKER ET AL. v. BEDFORD COUNTY ELECTION
COMMISSION ET AL.**

**Appeal from the Chancery Court for Bedford County
No. 26,164 J.S. Daniel, Chancellor By Designation**

No. M2006-00431-COA-OT-CV - Filed March 14, 2006

This appeal involves an incumbent sheriff's efforts to qualify for re-election and to have his name placed on the May 2006 Democratic primary ballot. The Bedford County Election Commission declined to place the sheriff's name on the ballot because he had not filed documents with the Tennessee Peace Officers Standards and Training Commission within the time required by Tenn. Code Ann. § 8-8-102(b)(1) (2002). The sheriff filed a petition with the Chancery Court for Bedford County seeking to enjoin both the Bedford County Election Commission and the Tennessee Peace Officers Standards and Training Commission from excluding his name from the ballot. The trial court denied the request for injunctive relief, and the sheriff appealed. We have determined, based on the circumstances of this case, that the defendants are estopped from relying on the sheriff's noncompliance with Tenn. Code Ann. § 8-8-102(b)(1) to keep his name off of the May 2006 ballot because of the failure of the Bedford County election administrator to provide the sheriff with accurate and complete information regarding the qualifications for re-election.

Tenn. R. App. P. 3(a) Appeal as of Right; Judgment of the Chancery Court Reversed

WILLIAM C. KOCH, JR., P.J., M.S., delivered the opinion of the court, in which WILLIAM B. CAIN and FRANK G. CLEMENT, JR., JJ., joined.

Forest A. Durard, Jr. and Jeffrey K. Seckler, Shelbyville, Tennessee, for the appellant, Roger Clay Parker.

John T. Bobo, Shelbyville, Tennessee, for the appellee, Bedford County Election Commission and Anna Clanton.

Paul G. Summers, Attorney General and Reporter, and Richard H. Dunavant, Assistant Attorney General, for the appellee, State of Tennessee Peace Officers Standards and Training Commission.

MEMORANDUM OPINION¹

I.

Roger Clay Parker has been the Sheriff of Bedford County since 1994. In October 2005, after deciding to seek re-election for a fourth term, Sheriff Parker went to the office of the Bedford County Election Commission to obtain a qualifying petition and other election-related documents. Anna Clanton, the election administrator and principal staff person for the election commission, informed Sheriff Parker that he could not obtain his re-election materials until November 18, 2005. Sheriff Parker returned to Ms. Clanton's office on November 18, 2005, and at that time Ms. Clanton provided him with nominating petitions and other documents related to the upcoming elections.

Among the documents Ms. Clanton provided Sheriff Parker were (1) a form for the appointment of a political treasurer, (2) a conflict of interest disclosure form, (3) a "2006 Election Calendar," (4) a document outlining the qualifications for candidates for sheriff, and (5) a checklist for candidates for sheriff. In addition to these documents, Ms. Clanton provided Sheriff Parker with two documents that were required to be filed with the Tennessee Peace Officers Standards and Training Commission ("POST Commission") pursuant to Tenn. Code Ann. § 8-8-102(b)(1) (2002). These documents included a confirmation of psychological evaluation and an affidavit of qualifications to be filled out by the candidate. The documents Sheriff Parker received on November 18, 2005 explicitly put him on notice that the qualifying deadline for the May 2006 primary election was February 16, 2006. However, the documents said nothing about the POST Commission's February 2, 2006 deadline for the submission of the two documents required by Tenn. Code Ann. § 8-8-102(b)(1).²

Sometime during the first week of December 2005, Ms. Clanton received updated documents and information from the State Election Commission regarding the 2006 elections. With specific regard to the elections for sheriff, these new documents included (1) an affidavit of qualifications to be filled out by the candidate, (2) a checklist for candidates for sheriff, and (3) a confirmation of psychological examination. These documents were essentially the same documents that Ms. Clanton had already provided to Sheriff Parker on November 18, 2005. However, the updated documents included a fourth document called "Sheriff's Qualifications Timetable" that had not been included

¹Tenn. Ct. App. R. 10 provides:

The Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion, it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

²Over four years earlier, the Tennessee General Assembly had amended the POST Commission's statutes to provide that this information must be filed with the POST Commission "at least fourteen (14) days prior to the qualifying deadline. . . ." Tenn. Code Ann. § 8-8-102(b)(1) (Act of June 14, 2001, ch. 413, § 15, 2001 Tenn. Pub. Acts 985, 987).

in the documents that Sheriff Parker had already received. This document spelled out explicitly that February 2, 2006 was the “[f]iling [d]eadline at POST for affidavit and supporting documents.”

Ms. Clanton states that she promptly mailed these new documents to Sheriff Parker and the other two candidates who had already picked up petitions before she received the new documents. Sheriff Parker states that he never received these documents from Ms. Clanton, and the record contains evidence that Ms. Clanton mailed the documents to an incorrect address.³ Ms. Clanton placed notices in the *Shelbyville Times-Gazette* on January 13, 2006 and January 25, 2006 stating that the qualifying deadline for certain offices, including sheriff, was February 16, 2006. Neither of these notices stated that there was an earlier filing deadline for certain documents in the sheriff’s race.

On Wednesday, February 8, 2006, Sheriff Parker filed his qualifying papers in the office of the Bedford County Election Commission. On the same day, he drove to Nashville to file the required papers with the POST Commission. When he presented his papers to the POST Commission’s staff, they informed him that the deadline had passed. On February 10, 2006, Sheriff Parker filed a pro se petition for a preliminary injunction in the Chancery Court for Bedford County.⁴ The trial court issued a temporary restraining order and set a hearing for February 24, 2006. Following a bench trial on February 24, 2006, the trial court entered an order on March 3, 2006, dissolving the temporary restraining order and denying Sheriff Parker’s petition for injunctive relief. Sheriff Parker has appealed.

II.

This case presents only one issue – whether the trial court erred by failing to conclude that Sheriff Parker should be excused from not complying with the filing deadline in Tenn. Code Ann. § 8-8-102(b)(1) because of the conduct of Ms. Clanton. This issue is outcome-determinative because the parties have agreed that neither the Bedford County Election Commission nor the POST Commission have any other basis for disqualifying Sheriff Parker from seeking re-election.

Sheriff Parker asserts that both the Bedford County Election Commission and the POST Commission should be estopped from using his non-compliance with Tenn. Code Ann. § 8-8-102(b)(1) as a basis for excluding him from the May 2006 ballot. He insists that Ms. Clanton, in her roll as the election administrator in Bedford County, led him to believe that the only deadline for filing his re-election papers was February 16, 2006, and that he had a right to rely on what Ms. Clanton told him.

³ Sheriff Parker testified that his address had been changed even though he was living in the same house because of intervening address changes required by the implementation of the 9-1-1 emergency response system. Ms. Clanton and Sheriff Parker disagree about when she became aware that her address for Sheriff Parker was incorrect. Sheriff Parker insists that he informed Ms. Clanton of the error on November 18, 2005. Ms. Clanton insists that Sheriff Parker did not inform her about the change in his address until January 30, 2006.

⁴ Another candidate for sheriff later intervened in the case. However, this candidate has not appealed from the trial court’s denial of injunctive relief.

We must consider estoppel arguments in contexts like this one in light of the general rule that the doctrine of estoppel may be invoked against the State of Tennessee and its political subdivisions only in very exceptional circumstances. *Paduch v. City of Johnson City*, 896 S.W.2d 767, 772 (Tenn. 1995); *Bledsoe County v. McReynolds*, 703 S.W.2d 123, 124, 125 (Tenn. 1985). Notwithstanding the courts' reluctance to estop government entities, the Tennessee Supreme Court has signaled that the courts should not hesitate to invoke estoppel, even in circumstances like this one.

Forty years ago, Charles R. Moffett attempted to qualify as a candidate in the 1966 Republican primary for governor. Because the qualifying deadline fell on a Sunday, he waited until Monday to file his qualifying petition with the chairman of the Tennessee Republican Party. When the chairman refused to accept the petition because it was one day late, Dr. Moffett sought a writ of mandamus to require the chairman to accept his nominating petition. The trial court granted the writ, but the Tennessee Supreme Court reversed, finding that Dr. Moffett was solely responsible for filing his petition after the statutory deadline. *Koella v. State ex. rel. Moffett*, 218 Tenn. 629, 640, 405 S.W.2d 184, 189-90 (1966). However, the court noted:

It is pertinent to point out that this record, aside from appellee's brief, is silent as to any official misconduct or mistake which might justifiably be said to have misled the appellee, to his detriment, or to excuse his noncompliance with the mandatory terms of the qualifying statute. The choice of filing time was his.

If it appeared on this record, by proper pleading and proof, that the appellee was justifiably misled as to proper calculation of time to file his petition for qualification, by official opinion, this Court would not hesitate to excuse him from literal compliance with the otherwise mandatory Tennessee statute; and would order that such person, or any other similarly situated, be placed upon the ballot.

Koella v. State ex rel. Moffett, 218 Tenn. at 640, 405 S.W.2d at 189-90.

Twenty-five years later, the Tennessee Supreme Court invoked its decision in *Koella v. State ex rel. Moffett* in a case from Bedford County involving Joyce Tune's effort to run for a seat on the Bedford County Commission in August 1990. *Crowe v. Ferguson*, 814 S.W.2d 721 (Tenn. 1991). The Bedford County election officials initially refused to accept Ms. Tune's petition based on an opinion by the State Election Coordinator that she was not qualified to seek the post. Ms. Tune re-filed her petition after the Attorney General and Reporter advised the Bedford County Election Commission that the State Election Coordinator had erred. However, the election commission again declined to accept the petition because the filing deadline had passed. Under these facts, the court held:

We are persuaded that if a candidate misses a qualifying deadline due to her reasonable and justifiable reliance upon an official opinion,

relief from the mandatory deadline is appropriate, provided filing takes place with all reasonable dispatch after it is discovered the opinion is incorrect. There is no doubt that Tune reasonably and justifiably relied upon an official opinion regarding her ineligibility to run for County Commissioner and she immediately filed her qualifying petition upon learning that the Election Commission had reversed their earlier position.

Crowe v. Ferguson, 814 S.W.2d at 725.

The Tennessee Supreme Court's decisions in *Koella v. State ex rel. Moffett* and *Crowe v. Ferguson* provide the template for our decision in this case. We must first determine whether Ms. Clanton, in the discharge of her official duties, committed any mistake or misconduct that misled Sheriff Parker. If the answer to this question is yes, then we must determine whether Sheriff Parker's reliance on Ms. Clanton's representations regarding the qualifying deadline was justifiable and whether Sheriff Parker was harmed by this reliance.

Ms. Clanton plays an important official role in the conduct of elections in Bedford County. As the election administrator and chief staff person for the Bedford County Election Commission, she has statutory duties to the public and to candidates for public office. Her duties include the "[c]ompilation, maintenance and dissemination of information to the public, the candidates, the voters, the press and all inquiring parties in regard to all aspects of the electoral process on all governmental levels. . . ." Tenn. Code Ann. § 2-12-201(a)(9) (2003). She is also charged with "[h]aving knowledge of all current laws pertaining to the election process and any changes mandated by the general assembly, and apprising the election commission, office staff, candidates, the press and the public in general of this information. . . ." Tenn. Code Ann. § 2-12-201(a)(12).

In light of these statutes, Ms. Clanton had a duty to provide Sheriff Parker and the other candidates for sheriff with complete and accurate information regarding the qualifications and procedures for the upcoming primary elections. Prior to her receipt of updated information from the State Election Coordinator in early December 2005, she undertook to discharge this duty by providing candidates with materials that did not include information regarding the February 2, 2006 deadline for submitting documents to the POST Commission. When she undertook to provide some information to the candidates, Ms. Clanton became obligated to provide complete and accurate information, including the related POST Commission filing deadlines.⁵

When Ms. Clanton received the updated qualifications information in early December, she should have understood that the new information was more complete than the information she had already provided to three of the candidates. She should also have known that the POST Commission

⁵ Ms. Clanton explained that she passed along the information that was provided to her by the State Election Coordinator and that she would have provided more complete information prior to the first week of December 2005 had the State Election Coordinator sent the information to her sooner. While Ms. Clanton's reliance on the State Election Coordinator is understandable, her statutory duty to apprise the candidates on all aspects of the electoral process and any changes in the election statutes is not limited to the information received from the State Election Coordinator.

filing deadline was a significant hurdle for candidates seeking the sheriff's office and, therefore, that the information regarding the POST Commission deadline would be of great importance to the candidates. Despite the evident importance of this information, she decided to mail the information to the candidates who had not received it rather than delivering it to them personally.

While using the mail to deliver important information may be reasonable in most circumstances, Ms. Clanton's decision to mail the updated information to Sheriff Parker and the two other candidates was mistaken for two reasons. First, Ms. Clanton had personally delivered the information to the three candidates who picked up their qualifying petitions before she received the updated information. Personal delivery assures that delivery actually takes place, and thus, in light of the importance of the information involved, Ms. Clanton should have arranged for personal delivery of the updated information or some other method of delivery that included written confirmation of delivery. Second, with particular regard to Sheriff Parker, it appears inescapable that Ms. Clanton mailed the updated information to the wrong street address. While Ms. Clanton insists that she was unaware of the change in the sheriff's address when she mailed the new material to him in early December 2005, she knew that the address was incorrect by no later than January 30, 2006.⁶ At that point, she should have realized that she had mailed the updated qualification materials to the wrong address. In light of the address discrepancy, she should either have asked Sheriff Parker if he had received the updated information or she should have made arrangements to deliver the information to him personally. Had Ms. Clanton acted promptly on January 30, 2006, Sheriff Parker would have been able to comply with the February 2, 2006 POST Commission filing deadline.

Accordingly, we conclude that Ms. Clanton made crucial mistakes regarding the completeness of the information she provided Sheriff Parker on November 18, 2005 and regarding the manner in which she undertook to provide the sheriff with the updated information after she received it in early December 2005. It remains to be decided whether Sheriff Parker was justified in relying on the information Ms. Clanton provided him and whether he was adversely affected by his reliance. We have concluded that the answer to both of these questions is yes.

The POST Commission argues that Sheriff Parker's reliance on the information provided to him by Ms. Clanton was not reasonable because he, like all persons, is presumed to know the law⁷ and because he could have found the POST Commission deadline in Tenn. Code Ann. § 8-8-102(b)(1) just as easily as Ms. Clanton could have. We disagree. Election procedures and requirements are complex. It is precisely for this reason that the Tennessee General Assembly

⁶Ms. Clanton testified that she did not know that Sheriff Parker's street address had changed until he told her about the change during a telephone conversation on January 30, 2006. For his part, Sheriff Parker testified that he told Ms. Clanton on November 18, 2005 that she had placed the wrong address on his qualifying petitions and that she assured him that she would update the information on her computer when he filed his qualifying papers. The trial court did not undertake to resolve this conflicting testimony, and we have determined that it is unnecessary for us to do so.

⁷*State ex. rel. Lawrence County v. Hobbs*, 194 Tenn. 323, 332, 250 S.W.2d 549, 553 (1952); *Boyers v. Pratt*, 20 Tenn. (1 Hum.) 90, 93 (1839). While this presumption may retain some utility in modern society, its application may be circumscribed by the reality that life in Twenty-First Century America is complex, and the number of federal, state, and local laws affecting all citizens has increased significantly over the years.

imposed on election officials like Ms. Clanton the clear duty to inform candidates regarding all aspects of the election process and to apprise them of any changes in the law. Shifting the burden of knowing the law back to the candidates devalues Tenn. Code Ann. § 2-12-201(a)(9), (12). Accordingly, in light of Ms. Clanton's statutory duties, we find that Sheriff Parker, like any other candidate for public office, can reasonably rely on the accuracy and completeness of the information provided by election officials.⁸

There is also little question regarding whether Sheriff Parker was adversely affected by the mistakes made by Ms. Clanton. Because Ms. Clanton did not take appropriate steps to assure that Sheriff Parker had received the current updated information regarding the POST Commission's filing deadline, Sheriff Parker failed to file his papers with the POST Commission on time, and the POST Commission refused to accept his papers. Had Ms. Clanton apprised Sheriff Clanton of the updated information, even as late as January 30, 2006, Sheriff Clanton would have been able to file his papers in a timely manner.

In light of the facts in this record, we have determined that Sheriff Parker has satisfactorily established that he is entitled to equitable relief and that the trial court erred by failing to direct the POST Commission and the Bedford County Election Commission to accept his papers as timely filed. We also note that granting this relief does not interfere with the officials' ability to conduct the primary election in May 2006. Because Sheriff Parker has been certified by the POST Commission since 1984, the Executive Secretary of the POST Commission testified that certifying Sheriff Parker as qualified to seek re-election would have been pro forma.⁹

III.

The March 3, 2006 order denying Sheriff Parker's request for injunctive relief is reversed, and the case is remanded to the trial court with directions to enter an order directing the Bedford County Election Commission and the Tennessee Peace Officers Standards and Training Commission to accept Sheriff Parker's papers as timely filed. The costs of this appeal are taxed in equal proportions to the Bedford County Election Commission and the Tennessee Peace Officers Standards and Training Commission.

WILLIAM C. KOCH, JR., P.J., M.S.

⁸It is not clear whether the argument based on the candidate's presumed knowledge of the law was made in *Koella v. State ex rel. Moffett* and *Crowe v. Ferguson*. However, Dr. Moffett's and Ms. Tune's presumed knowledge of the law did not prevent the Tennessee Supreme Court from holding that a candidate who was justifiably misled by a mistake of an election official was entitled to judicial relief.

⁹The executive director conceded that the POST Commission had received so many applications that it was unable to complete the required screening of all the candidates. He stated that the POST Commission simply "qualified the names pending criminal history checks" and determined that the paperwork was in order. He also testified that Sheriff Parker's paperwork, with the exception of a signature on a psychological form, was in order and that the problem with the psychological form was "easy to rectify."